Calendar No. 740

99TH CONGRESS
2d Session

SENATE

REPORT
99-344

EXEMPTING CERTAIN LANDS IN THE STATE OF MISSISSIPPI FROM A RESTRICTION SET FORTH IN THE ACT OF APRIL 21, ~~1986~~ 1806

JULY 25 (legislative day, JULY 21), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 1795]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 1795) to exempt certain lands in the State of Mississippi from a restriction set forth in the act of April 21, 1806, having considered the same, reports favorably thereon without amendment and recommends that the act do pass.

PURPOSE OF THE MEASURE

H.R. 1795, as reported, would remove the restriction set forth in section 5 of the Act of April 21, 1806 (2 Stat. 401) as it applies to two described tracts of land in Adams County, Mississippi.

BACKGROUND AND NEED

H.R. 1795 removes the restriction set forth in the proviso in section 5 of the Act of April 21, 1806 (2 Stat. 401) as it applies to two described tracts in Adams County, Mississippi. Under the terms of that section, the City of Natchez was granted approximately 30 acres of land owned by the United States with the proviso that the land ". . . be neither cultivated, nor occupied by buildings, but that it be planted with trees, and preserved as a common. . . ." The 30 acres granted by the 1806 Act comprise the same parcels as two lots and an outlet which were to be located for Jefferson College under an 1803 Act. Although the 1806 Act restricted the use of 30 acres, it did not prescribe the action that should be taken if the restriction were violated.

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On November 3, 1827, an agreement was entered into between the City of Natchez and Jefferson College, whereby approximately 25 acres of the 30 acres described in the 1806 Act were recognized as being the property of Jefferson College. The remaining 5 acres were recognized as belonging to the City of Natchez. The agreement specified that the 5 acres were to be used as a park. In the period since 1827, the 25-acre portion of the 30-acre tract has been fully developed with commercial and residential properties.

On July 5, 1872, approximately 1 acre of the 5 acres that were recognized as belonging to the City of Natchez, was sold by the City to the Natchez, Jackson and Columbus Railroad. The railroad erected a depot and warehouses on the 1-acre tract. The remaining 4 acres were retained by the City and used as a public common. On June 20, 1945, the Yazoo and Mississippi Valley Railroad, successor to Natchez, Jackson and Columbus Railroad, conveyed the one acre back to the City of Natchez.

The City of Natchez conveyed a portion of the 1-acre tract to Mr. Sim C. Callon on June 12, 1984. Located on this property are a freight warehouse and a parking lot. The portion of the 1-acre tract that is still owned by the City of Natchez is occupied by the old railroad depot which has been converted into a commercial restaurant.

The purpose of H.R. 1795 is to remove any possible cloud on the title which may interfere with future conveyances of the 1-acre tract involved in the June 20, 1945, and June 12, 1984 conveyances.

The Department of the Interior reports that there is no longer any Federal interest in the 1-acre tract in question, and suggests that the requirement of the 1806 Act that the lands be used as a common merely expressed the desire of the Congress and was not meant to perpetually exclude alternate uses, and was reinforced by the fact that no reversionary or other enforcement authority was included in the Act.

LEGISLATIVE HISTORY

H.R. 1795 was introduced by Representative Dowdy on March 28, 1985. The measure passed the House of Representatives on November 4, 1985. On March 4, 1986, the Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on H.R. 1795.

At a business meeting on July 16, 1986, the Senate Committee on Energy and Natural Resources ordered H.R. 1795 favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on July 16, 1986, by unanimous vote of a quorum present recommends that the Senate pass H.R. 1795.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker	
Mr. Domenici	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski*	
Mr. Nickles	
Mr. Hecht	
Mr. Evans*	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum*	
Mr. Bradley*	
Mr. Bingaman*	
Mr. Rockefeller*	

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 22, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1795, an act to exempt certain lands in the State of Mississippi from a restriction set forth in the Act of April 21, 1806, as ordered reported by the Senate Committee on Energy and Natural Resources, July 16, 1986.

H.R. 1795 would exempt a one-acre tract of land conveyed by the United States to the city of Natchez, Mississippi, from the provision in the 1806 conveyance law requiring that the land be preserved as a public park. The United States has no reversionary interest in the property, and removal of the use restriction would result in no cost to the federal government.

H.R. 1795 would not affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rule of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1795. The Act is not a regulatory measure in the sense of

*Indicates vote by proxy.

imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any additional paperwork would result from the enactment of H.R. 1795, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to H.R. 1795 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, February 6, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on H.R. 1795 and S. 1021, identical bills "To exempt certain lands in the State of Mississippi from a restriction set forth in the Act of April 21, 1806."

We would not object to enactment of H.R. 1795 and S. 1021.

H.R. 1795 and S. 1021 would remove the restriction set forth in the proviso in section 5 of the Act of April 21, 1806 (2 Stat. 401) as it applies to two described tracts in Adams County, Mississippi.

Section 11 of the Act of March 3, 1803 (2 Stat. 223), directed the survey of lands in the Mississippi Territory. Section 12 of that Act directed the sale of the lands of the United States in the Mississippi Territory, but excepted certain lands from the sale. Included in the exception were 36 sections to be located by the Secretary of the Treasury for the use of Jefferson College, and ". . . such town lots not exceeding two in the town of Natchez, and of such an outlet adjoining the same, not exceeding thirty acres . . . to be located by the governor of the Mississippi Territory, for the use of the said college . . ."

In December 1803, the two town lots and the outlet referred to in the March 3, 1803, Act were "located." The locations were filed in the office of the governor of the Mississippi Territory, but were never filed for record in the General Land Office of the United States.

Subsequently, under the terms of section 5 of the Act of April 21, 1806 (2 Stat. 401), the City of Natchez was granted approximately 30 acres of land of the United States with the proviso that the land ". . . be neither cultivated, nor occupied by buildings, but that it be planted with trees, and preserved as a common. . . ." The 30 acres granted by the 1806 Act comprise the same parcels as the two lots and the outlet that were to be located for Jefferson College under the 1803 Act. Although the 1806 Act restricted the use of 30 acres, it did not prescribe the action that should be taken if the restriction were violated.

Jefferson College instituted a suit in ejectment in the Circuit Court of the territory of Mississippi, against the City of Natchez, alleging that the college had title to the lands involved in the 1803

and 1806 Acts. In 1822 the Court found the land to be the property of Jefferson College. However, the case remained open until November 3, 1827.

On November 3, 1827, an agreement was entered into between the City of Natchez and Jefferson College, whereby approximately 25 acres of the 30 acres described in the 1806 Act were recognized as being the property of Jefferson College. The remaining five acres were recognized as belonging to the City of Natchez. The agreement specified that the five acres were to be used as a park. This agreement was executed in order to settle the ejectment action. In the period since 1827, the 25-acre portion of the 30-acre tract has been fully developed with commercial and residential properties.

On July 5, 1872, approximately one acre of the five acres that were recognized as belonging to the City of Natchez, was sold by the City to the Natchez, Jackson and Columbus Railroad. The railroad erected a depot and warehouses on the one-acre tract. The remaining four acres were retained by the City and used as a public common. On June 20, 1945, the Yazoo and Mississippi Valley Railroad, successor to Natchez, Jackson and Columbus Railroad, conveyed the one acre back to the City of Natchez.

The City of Natchez conveyed a portion of the one-acre tract to Mr. Sim C. Callon on June 12, 1984. Located on this property are a freight warehouse and a parking lot. The portion of the one-acre tract that is still owned by the City of Natchez is occupied by the old railroad depot which has been converted into a commercial restaurant.

It is our understanding that the purpose of these bills is to remove any possible cloud on the title which may interfere with future conveyances of the one-acre tract involved in the June 20, 1945, and June 12, 1984, conveyances.

There is no longer any Federal interest in the one-acre tract in question. The requirement of the 1806 Act that the lands be used as a common merely expressed the desire of the Congress and was not meant to perpetually exclude alternate uses. This is reinforced by the fact that no reversionary or other enforcement authority was included in the Act. Therefore we would not object to enactment.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JAMES E. CASON,
Deputy Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act, H.R. 1795, as reported.

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